IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 227 of 2006

LR'S OF JETH MAL
V/S
VAKTA RAM & OTHERS

Mr. PRADEEP SHAH, for the appellant / petitioner

Date of Order : 22.8.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant. Perused the judgments of the two learned Courts below, and the statement of the attesting witness, P.W.2 Magh Singh.

The learned lower Appellate Court has reversed the finding of the learned trial Court after discussing the evidence of the parties in detail, and has inter-alia found that according to the plaintiff, the premises were let out on 18.2.82, while on record it has been established that the plaintiff has got served Ex.A-1 wherein it was alleged that the defendants are tenants since 20.1.79 @ Rs.50/- per month, as against which, the suit has been filed on the basis that the premises were let out on 18.2.82 @ Rs.100/- per month. As against this, the plaintiff in his oral evidence, has deposed that the premises were let out in the year 1983. Likewise, learned lower Appellate Court has also found that according to P.W.2, there was only one stamp on which rent note, and the signatures of the defendnats Vakta

Ram and Rama were there, while a look at Ex.4 shows that it is on 5 sheets each being stamp worth 50 Paisa, while according to Magh Singh, there was only one stamp. It has also been considered that according to the plaintiff, they purchased the property by registered sale deed, and they were in possession till 7-8 days before commencement of the tenancy, while even according to P.W.2, the defendants are living in the property all through, likewise even according to P.W.3, the defendants are living in the property since ancestors. Thus, it has been found that the story of the defendants having been inducted as tenant vide Ex.4 is a complete myth, and the document is not proved. In my view, the finding has been arrived at by proper appreciation of evidence.

So far the finding of the learned trial Court is concerned, the finding is as casual and cursory as it could be, inasmuch as, all that has been said by the learned trial Court is that the plaintiffs' evidence has been that the premises are let out to Ram Lal and Vakta Ram, he gave notice Ex.1, and rent note Ex.4 bears the signatures of defendants as A to B and C to D, which were appended in his presence, and P.W.2 the attesting witness, while according to defendant D.W.1 and 7, the property was never sold, nor any rent was executed, referring only this, it has been concluded that the plaintiffs have proved the rent note, and the defendants have not rebutted it, therefore, rent note has been found proved.

In my view, in view of the discussion made by the learned lower Appellate Court, of the evidence available on record, in detail, the finding of the learned trial Court has rightly been set aside.

Thus, I do not find any error in the impugned judgment. The appeal is, therefore, dismissed summarily.

(N P GUPTA),J.

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